



# United States Attorneys' Bulletin



**EXECUTIVE  
OFFICE FOR  
UNITED  
STATES  
ATTORNEYS**

*Published by:*

*Executive Office for United States Attorneys, Washington, D.C.  
For the use of all U.S. Department of Justice Attorneys*

**William P. Tyson, Director**

**Editor-in-Chief: Susan A. Nellor      FTS 633-4024**  
**Editor: Judith C. Campbell      FTS 673-6348**

## TABLE OF CONTENTS

	<u>Page</u>
COMMENDATIONS.....	241
POINTS TO REMEMBER	
Attorney General's Advisory Committee.....	242
Bluesheet and Transmittals, <u>United States Attorneys' Manual</u>	243
Ethical Question: <u>Unauthorized Disclosure of Official</u>	
Information by Department of Justice Attorneys.....	243
Personnel.....	244
Procedures for Obtaining Certified and Exemplified Copies	
of Military Records for Court Use.....	244
Teletypes to All United States Attorneys.....	245
CASENOTES	
OFFICE OF THE SOLICITOR GENERAL.....	245
CIVIL DIVISION.....	246
LAND AND NATURAL RESOURCES DIVISION.....	250
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS.....	253
FEDERAL RULES OF CRIMINAL PROCEDURE.....	255
FEDERAL RULES OF EVIDENCE.....	256
APPENDIX.....	258

COMMENDATIONS

Assistant United States Attorney PATRICIA L. COLLINS, Central District of California, was commended by Mr. Richard T. Bretzing, Special Agent in Charge, Federal Bureau of Investigation, Los Angeles, California, for her exemplary efforts in prosecuting United States v. Godbolt.

Assistant United States Attorneys NATHAN DODELL and SCOTT THOMAS KRAGIE, District of Columbia, were commended by Mr. Richard B. Abell, Deputy Assistant Attorney General, Office of Justice, Assistance, Research and Statistics, Department of Justice, for their efforts in National Black Police Association v. Velde.

Assistant United States Attorney WILLIAM F. FAHEY, Central District of California, was commended by Mr. Theodore W. Wu, Deputy Assistant Secretary for Export Enforcement, Department of Commerce, for his outstanding work in United States v. Ludwig.

Assistant United States Attorney IAN FAN, Central District of California, was commended by Mr. Richard J. Risenberg, Assistant General Counsel for Public Health, Office of the Secretary, Department of Health and Human Services, for his outstanding work in the handling of United States v. Kaiser Foundation Hospitals.

Assistant United States Attorney NANCY L. HOLLEY, Southern District of Texas, was commended by Mr. Paul F. Kearns, Regional Inspector, Internal Revenue Service, for her extraordinary personal assistance and cooperation in a successful criminal investigation involving violations of 26 U.S.C. §7212(a).

Assistant United States Attorneys JAMES A. LEWIS, MICHAEL J. O'LEARY, LELAND L. SMITH and MARK D. STUAAN, Central District of Illinois, were commended by Mr. Marvin L. Hancks, Chief Counsel, United States Army Armament, Munitions and Chemical Command, Department of the Army, for their highly professional guidance and timely representation of the interests of the Department of Army and the Rock Island Arsenal.

Assistant United States Attorney JOYCE A. KARLIN, Central District of California, was commended by Mr. Peter J. Tomaino, Special Agent in Charge, Drug Enforcement Administration, Jakarta, Indonesia, for her successful prosecution of United States v. Chin Atsaneevutthikorn.

Assistant United States Attorney C. WILLIAM RYAN, District of Utah, was commended by Mr. J. S. Tixier, Regional Forester, Ogden, Utah, for his outstanding presentation at the Cadastral Surveyor's Workshop.

Assistant United States Attorney RONALD K. SILVER, Central District of California, was commended by Mr. William B. Wharton, Director, Office of Citizenship Appeals and Legal Assistance, Department of State, for his outstanding work in Richards v. Secretary of State.

Assistant United States Attorney NANCY L. SIMPSON, Eastern District of California, was commended by Mr. William H. Webster, Director, Federal Bureau of Investigation, for her contributions to the successful prosecution of members of the gang known as La Nuestra Familia.

Assistant United States Attorney PETER STIRBA, District of Utah, was commended by Mr. R. E. Lindsey, Jr., Director of the Utah Veterans Administration, for devoting numerous hours "beyond the call of duty" to the successful resolution of a vexing, complex and potentially life-threatening case.

Assistant United States Attorney WAYNE P. WILLIAMS, District of Columbia, was commended by Captain H.J.F. Korrell, Jr., Commanding Officer, Naval Sea Systems Command, Department of the Navy, for his successful prosecution of Boogich v. Department of the Navy.

Assistant United States Attorney GEORGE H. WU, Central District of California, was commended by Mr. Seymour Copperman, Colonel, United States Air Force, and Chief, General Litigation Division, Office of the Judge Advocate General, Washington, D.C., for his outstanding work in Asco Machine Products, Inc. v. Headquarters Aeronautical Systems Division, USAF.

#### POINTS TO REMEMBER

#### Attorney General's Advisory Committee of United States Attorneys

Below is an updated list of the members of the Attorney General's Advisory Committee of United States Attorneys.

Salvatore R. Martoche, Chairman, Western District of New York  
John W. Gill, Jr., Vice-Chairman, Eastern District of Tennessee  
Peter K. Nunez, Vice-Chairman, Southern District of California

Joe B. Brown, Middle District of Tennessee  
James W. Diehm, District of Virgin Islands (St. Croix)  
Frank W. Donaldson, Northern District of Alabama  
Helen M. Eversberg, Western District of Texas  
Frederick J. Hess, Southern District of Illinois  
Rudolph W. Giuliani, Southern District of New York  
John E. Lamp, Eastern District of Washington  
Kenneth W. McAllister, Middle District of North Carolina

James M. Rosenbaum, District of Minnesota  
Brent D. Ward, District of Utah  
William F. Weld, District of Massachusetts  
Joe D. Whitley, Middle District of Georgia  
Joseph E. diGenova, District of Columbia (Ex Officio)

(Executive Office)

Bluesheets and Transmittals, United States Attorneys' Manual

Updated lists of United States Attorneys' Manual Bluesheets and Transmittals are appended to this Bulletin.

(Executive Office)

Ethical Question-Unauthorized Disclosure of Official Information by Department of Justice Attorneys.

The Executive Office for United States Attorneys received an allegation against a Special Assistant United States Attorney for the unauthorized disclosure of official information. The Special Assistant, who worked in a non-criminal area in the United States Attorney's office, disclosed to a friend sensitive information regarding a pending criminal investigation which was obtained by virtue of employment in the United States Attorney's office. This friend expressed concern that a mutual friend of theirs was being investigated and on his behalf, the Special Assistant sought information from the Criminal Section's docket files and from the investigative agency. The Special Assistant determined and disclosed to the friend that there was nothing in the file to implicate their mutual friend.

Section 45.735-10 of Title 28 of the Code of Federal Regulations states that

[n]o employee shall use. . .for himself or another person, or make any other improper use of, whether by direct action on his part or by counsel, recommendation, or suggestion to another person, information which comes to the employee by reason of his status as a Department of Justice employee and which has not become part of the body of public information.

It is the Executive Office's opinion that any disclosure concerning a pending investigation to someone not authorized to receive such information is in violation of 28 C.F.R. §45.735-10. Therefore, the Special Assistant was in violation of 28 C.F.R. §45.735-10 and received a verbal reprimand. The Special Assistant has since resigned from the United States Attorney's office.

Attorneys employed by the Department should conduct themselves, in official as well as personal activities, in a manner that creates and maintains respect for the Department of Justice and the United States Government. If you have any questions regarding the above guidelines or the Department's standards of conduct, please contact the Office of Legal Services, Executive Office for United States Attorneys, at FTS 633-4024.

(Executive Office)

### Personnel

Effective April 18, 1985, Attorney General Edwin Meese, III, appointed United States Attorney Helen M. Eversberg, Western District of Texas, to fill the unexpired term of Daniel K. Hedges, on the Attorney General's Advisory Committee of United States Attorneys.

Effective April 22, 1985, Terry H. Eastland was appointed the Director of the Office of Public Affairs. Mr. Eastland, formerly a Special Assistant to the Attorney General, had been on temporary assignment with the Department of Education.

(Executive Office)

### Procedures for Obtaining Certified and Exemplified Copies of Military Records for Court Use

The Federal Records Center, Military Branch, has advised that to obtain certified and exemplified copies of a military record for court use, a subpoena signed by the presiding federal or state court judge is required. Subpoenas signed by the Clerk of the Court will not be honored.

In requesting certified and exemplified copies of a record, the United States Attorney must identify the person by his or her military serial number, social security number, or date and place of birth. The request should state specifically in the subpoena the information that is necessary (e.g., DD 214 or Statement of Service, court-martial or nonjudicial punishments, AWOL periods, medical history, psychiatric evaluations, etc.).

It takes three to four working days to process a record. Once processed, the copies can be forwarded to the United States Attorney by express mail if the organizational mailing number is provided.

Subpoenas for military records maintained by the General Services Administration (records of those who are totally discharged from the military) should be directed to the Director, National Personnel Records Center, General Services Administra-

tion, Military Personnel Records, 9700 Page Boulevard, St. Louis, Missouri 63132, telephone number (314) 263-7201.

Subpoenas for records maintained by the Reserve Components Personnel and Administration Center (Army personnel with a reserve obligation or Army retirees) should be directed to the Commander, United States Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, Missouri 63132, and to the attention of "AGUZ-PSA-I, Special Inquiries Branch." The telephone numbers are FTS 273-7369 or commercial number (314) 263-7260.

Any questions regarding military records should be directed to Investigative Assistants at the Federal Records Center, FTS 273-7260 or commercial number (314) 263-7260.

(Executive Office)

#### Teletypes to All United States Attorneys

A listing of recent teletypes sent by the Executive Office is appended to this Bulletin. If a United States Attorney's office has not received one or more of these teletypes, copies may be obtained by contacting Ms. Theresa Bertucci, Chief of the Communications Center, Executive Office for United States Attorneys, at FTS 633-1020.

(Executive Office)

#### CASENOTES

##### OFFICE OF THE SOLICITOR GENERAL

The Solicitor General has authorized the filing of:

A petition for a writ of certiorari in United States v. Quinn, 751 F.2d 980 (9th Cir. 1984). The issue is whether the owner of a boat that was searched and from which marijuana was seized has standing to contest the search and seizure when the owner himself had never used the boat and had let it out of his possession for a two-year period.

A petition for a writ of certiorari in EEOC v. Federal Labor Relations Authority, No. 82-2310 (D.C. Cir. Sept. 21, 1984, rehearing denied Dec. 3, 1984). The issue is whether a proposal by a federal employees' union that an agency comply with an OMB circular governing agency contracting-out decisions is a mandatory subject of bargaining.

## CIVIL DIVISION

FIRST CIRCUIT UPHOLDS HUD'S PRACTICE OF SIMULTANEOUSLY  
NEGOTIATING SETTLEMENT OF MERITS AND ATTORNEYS FEES.

In this case, the Department of Housing and Urban Development (HUD) had a strong defense on the merits but agreed to settle in order to avoid trial. However, in doing so, HUD insisted that the plaintiff's attorney not seek a fee under the EAJA; otherwise HUD would go to trial where it expected to win. The other two defendants did not have strong merits defenses but also insisted on an attorney fee waiver. Plaintiff's counsel signed the settlement with a waiver, but then later challenged the "no fee" provision, arguing that it is unethical to negotiate the merits and attorney fees at the same time in cases where a statutory attorney fee is provided for. The district court disagreed and plaintiff's attorney appealed.

The First Circuit has just affirmed, holding that HUD did not act improperly, and that no fee was due against the agency. The court, nevertheless, strongly criticized the negotiation strategy of the other defendants because they did not have strong cases on the merits. The court indicated that, in the future, plaintiffs' counsel can put aside their duty to their clients because the interest in obtaining a fee under a statutory fee provision serves the general public interest and must be protected. This decision is arguably in conflict with rulings by the Third and Ninth Circuits, which have severely criticized joint negotiations.

Lazar v. Pierce, \_\_\_ F.2d \_\_\_, No. 84-1829 (1st Cir. Mar. 21, 1985). D. J. # 145-17-3657.

Attorneys: John Cordes (Civil Division) FTS 633-3380;  
Douglas Letter (Civil Division) FTS 633-3427.

SECOND CIRCUIT HOLDS THAT FEDERAL LABOR RELATIONS  
AUTHORITY DID NOT ERR IN DETERMINING THAT THE WEARING OF  
UNIFORMS BY NATIONAL GUARD CIVILIAN TECHNICIANS IS A  
METHOD OR MEANS OF PERFORMING THEIR CIVILIAN WORK.

Technicians are civilian employees who must simultaneously hold commissions in the National Guard. The Guard requires them to wear their National Guard uniforms even while performing their civilian work in order to foster military discipline, promote uniformity, encourage esprit de corps, and increase the readiness of the Guard for early deployment. The Guard unions challenged this regulation before the Federal Labor Relations Authority (FLRA) and initially succeeded. We succeeded in having the cases

remanded by the courts of appeals for consideration of an issue the FLRA had failed to decide, namely, whether the uniform requirement is outside the scope of mandatory bargaining as a "method or means" of performing work, within the meaning of 5 U.S.C. §7196(b)(1). On remand, the FLRA held in our favor, and the Second Circuit has just affirmed, in the first of the cases to be decided by a court of appeals following the remand.

New York Council, Association of Civilian Technicians v. FLRA, F.2d, No. 84-4128 (2d Cir. Mar. 14, 1985). D. J. # 145-19-6663.

Attorneys: William Kanter (Civil Division) FTS 633-1597;  
Marc Richman (Civil Division) FTS 633-5735.

THIRD CIRCUIT REVERSES LOWER COURT HOLDING THAT FORMER NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP RECIPIENTS ARE ENTITLED TO HAVE THEIR PAY AUGMENTED BY "CONSTRUCTIVE SERVICE CREDITS."

The district court held that former participants in the National Health Service Corps Scholarship Program, who became medical and dental officers in the National Health Service Corps after September 15, 1981, were entitled to have their pay augmented by a so-called "constructive service credit." Although the credit had been eliminated by Congress in 1980 when the plaintiffs were still students, and the statute eliminating the credit had a savings clause which did not include the plaintiff class, the district court found that United States v. Larionoff, 431 U.S. 864 (1977), required that the credits be included in the plaintiffs' pay since, when they entered the scholarship program, commissioned officers received such credits as an entitlement. The court ordered the constructive service credit to be given plaintiffs retroactive to the date of their commissions and awarded back pay.

We argued on appeal that Larionoff was distinguishable from this case, that there was no contractual obligation to give the scholarship students constructive service credits, that the savings clause did not cover the plaintiffs, and that the savings clause was constitutional. We also argued that the district court did not have jurisdiction over the case because more than \$10,000 was in controversy and, if plaintiffs could waive under this amount, jurisdiction would properly lie in the United States Court of Appeals for the Federal Circuit.

The Third Circuit reversed. It held that Larionoff did not apply, that the savings clause was constitutional, and that the district court did not have jurisdiction over the monetary claims. The court, however, remanded so that the district court might



determine if the straight contract claim should be transferred to the Claims Court for any further adjudication.

Hahn v. United States, \_\_\_\_\_ F.2d \_\_\_\_\_, No. 84-1004 (3d Cir. Mar. 18, 1985). D. J. # 145-16-2249.

Attorneys: Anthony J. Steinmeyer (Civil Division) FTS 633-3388; Richard A. Olderman (Civil Division) FTS 633-4052.

FOURTH CIRCUIT VACATES DISTRICT COURT'S NONACQUIESCENCE RULING, REMANDS CASE TO DISTRICT COURT TO REMAND TO SECRETARY FOR LIMITED RECONSIDERATION OF CERTAIN QUESTIONS, AND RULES THAT ONLY INDIVIDUALS IN CLASS WHO MEET THE EXHAUSTION AND 60-DAY FILING REQUIREMENTS OF THE SOCIAL SECURITY ACT CAN BE CLASS MEMBERS WHO ARE ENTITLED TO THE LIMITED RECONSIDERATION ORDERED BY THE COURT OF APPEALS

Plaintiffs, three social security recipients and applicants, complained that the Secretary of HHS was nonacquiescing in three specific Fourth Circuit cases. The district court agreed with plaintiffs that the Secretary was nonacquiescing in the Fourth Circuit's decisions in cases involving pain, hypertension and diabetes, and medical improvement. The court then (1) certified a class of social security applicants and terminees to include individuals whose benefits were denied or terminated on or after September 10, 1981; (2) enjoined the Secretary to begin to follow the Fourth Circuit law in these three subject matter areas and to follow Fourth Circuit law in general; and (3) ordered the Secretary to reopen and readjudicate the claims of the class members. The court set extremely short deadlines for compliance with its order and required the Secretary to give individual notice to putative class members and to publish notice via radio, television, and the newspapers. The Secretary also was required on the first of each month to give plaintiffs' counsel pertinent information concerning those individuals who had responded to the notices.

On our appeal, in all but two minor points, the Fourth Circuit sustained the Secretary's position. First, the court ruled that, pursuant to the 1984 Act, all of the cases of class members who raised the medical improvement issue would be remanded to the Secretary for processing in accordance with the 1984 Act. The court ordered the district court to dismiss the action with respect to these class members once the cases were remanded. Second, the court ruled that as to class members who raised the medical improvement issue and who also raised the pain issue, the Secretary would be obliged to use the pain standard announced in the 1984 Act and not any pre-existing Circuit standard. As to the 1984 Act's pain standard, the court gave no interpretation,

leaving it strictly for the Secretary to interpret in the first instance. Third, the Court ruled that injunctive relief under a nonacquiescence theory was improper since Congress itself had considered but then refused to implement a statutory solution to the nonacquiescence question. Fourth, the court ruled that individuals who did not comply with the exhaustion and 60-day filing requirements of the Social Security Act could not be members of the class. It ruled that challenges to the standards which the Secretary uses in determining disability are "inextricably intertwined" with claims for benefits so that exhaustion was necessary. As to the 60-day filing requirement, the court ruled that it was a jurisdictional requirement. Fifth, the court ruled that, since 42 U.S.C. §405(g) provided an adequate remedy for all class members, mandamus jurisdiction is inappropriate. It also found that the district court erred in permitting the North Carolina Disability Determination Services to intervene as a plaintiff in the action. The court determined that the Social Security Act prohibited such intervention since the DDS was not a party in the administrative proceedings, a condition precedent under the law to seeking judicial review. The court also determined that the DDS could not exercise a parens patriae role since, with respect to a citizen's rights in relation to the federal government, the United States--not the state--occupies the status of parens patriae.

Hyatt v. Heckler, \_\_\_ F.2d \_\_\_, Nos. 84-1381 and 84-1695 (4th Cir. Mar. 20, 1985). D. J. # 137-55-308.

Attorneys: William Kanter (Civil Division) FTS 633-1597;  
Deborah Kant (Civil Division) FTS 633-3424; Howard S. Scher  
(Civil Division) FTS 633-4820.

NINTH CIRCUIT AFFIRMS DISMISSAL OF ACTION BASED ON STATE  
SECRETS PRIVILEGE.

A homosexual electronics engineer, employed by a defense contractor, contended that he was denied a special access clearance to work on a particular classified contract because he is gay. Although he did not know the identity of the government agency sponsoring the classified contract, he sued the Central Intelligence Agency and the President, asking for a declaration that the CIA's allegedly anti-gay policy is unconstitutional and seeking an injunction against application of the anti-gay policy to his request for access to work on the particular program. In addition, he sought mandamus to compel the CIA or the relevant agency to process his application, and, if the application were denied, to give him a statement of reasons for the denial.

Because the identity of the contracting agency and its connection with the particular program in question is classified, the government asserted a state secrets privilege to protect that

information and moved to dismiss the action on the ground that further litigation was impossible without the privileged information. Based on the claim of privilege, the district court dismissed the action, and plaintiff appealed. After reviewing the claim of privilege in camera, the Ninth Circuit, in an unpublished order, has affirmed the dismissal agreeing with our argument that the "litigation cannot continue without a disclosure of privileged evidence."

Gayer v. Central Intelligence Agency, F.2d, No. 84-2229 (9th Cir. Mar. 28, 1985). D. J. # 145-1-1054.

Attorneys: Barbara L. Herwig (Civil Division) FTS 633-5425;  
Freddi Lipstein (Civil Division) FTS 633-3542.

#### LAND AND NATURAL RESOURCES DIVISION

FEDERAL LAND POLICY AND MANAGEMENT ACT'S SECTION 314  
REQUIREMENT FOR ANNUAL FILING BY HOLDERS OF UNPATENTED  
MINING CLAIM CONSTITUTIONAL; FILING ONE DAY LATE CAUSES  
CLAIM TO BE LOST.

The Supreme Court, by a 6 to 3 decision, held the United States Constitution does not prevent Congress from providing that holders of unpatented mining claims who fail to comply with the annual filing requirements of Section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. §1744, shall forfeit their claims. Specifically, the Court found that the express language of Section 314(a) read in conjunction with the Interior Department's Bureau of Land Management (BLM) regulations, makes clear that the owner of an unpatented mining claim must make annual filings on or before December 30. Congress intended, stated the Court in Section 314(c), to extinguish mining claims for which timely filings had not been made. Specific evidence of an intent to abandon a mining claim is irrelevant, since under Section 314(c) the failure to file on a timely basis, in and of itself, causes a mining claim to be lost. The Court further determined that the annual filing deadline is not substantially complied with by filing late, even where the filing is only one day late.

The Court concluded that Section 314(c) is not unconstitutional. Congress, stated the Court, was within its affirmative powers in enacting the filing requirements, in imposing the penalty of extinguishment for failure to file timely, and in applying the requirements and sanctions to mining claims located before the FLPMA was passed. The Court ruled that it was the mining claim holder's failure to file on time that caused their property rights to be lost, not Congress' action in enacting

Section 314 of the FLPMA. Finally, the Court found that Congress was completely justified in determining that it was preferable to place the burden of maintaining their claims on claimants in order to establish a federal recording system that is designed both to remove stale mining claims from federal lands and to provide federal land managers with up-to-date information and data which allow them to make informed land management decisions.

United States v. Locke, \_\_\_\_\_ U.S. \_\_\_\_\_, No. 83-1394 (Apr. 1, 1985). D. J. #90-1-18-3573.

Attorneys: Arthur E. Gowran (Land and Natural Resources Division) FTS 633-2754; David C. Shilton (Land and Natural Resources Division) FTS 633-4427.

BLM'S DECISION TO KEEP PART OF DOVE SPRINGS OPEN TO UNRESTRICTED OFF-ROAD VEHICLE USE SUSTAINED AS NOT ARBITRARY.

Section 601 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. §1781, established the California Desert Conservation Area ("CDCA"), consisting of approximately 12.5 million acres of federally-owned desert lands in southern California. Section 601 also directed the Secretary of the Interior, acting through the Bureau of Land Management ("BLM"), to prepare and implement a comprehensive multiple use and sustained yield land management plan for the CDCA. That provision further stated that the Plan should provide for the use "where appropriate, of off-road recreational vehicles. . ."

Dove Springs is a CDCA tract of approximately 5,000 acres which once possessed significant environmental values. Beginning in 1965, however, it began to attract the attention of an ever-increasing number of off-road vehicle ("ORV") enthusiasts; consequently, by 1980, the tract had suffered severe environmental damage, including major soil erosion and loss of vegetation. The Sierra Club, pointing to this environmental damage, petitioned BLM to close the area to ORV use. Rather than granting Sierra Club's petition, however, BLM, in adopting the formal CDCA Plan in late 1980, decided to keep 3,000 acres of Dove Springs open to unrestricted ORV use. BLM's decision was based in part upon the fact that the tract could be rehabilitated only at great expense and that its designation as an open area would reduce policing problems in other CDCA areas closed to ORV use.

Sierra Club then sought judicial review, contending primarily that Executive Order No. 11989 and 43 C.F.R. §8341.2, which direct federal land managers to close lands to ORV use where such use results in "considerable adverse effects," mandates closure of Dove Springs. The district court, however, upheld BLM's "open" designation and Sierra Club appealed.

The court of appeals affirmed. The court first noted that the Secretary interpreted the term "considerable adverse effects" as applying to impacts throughout the CDCA as an entire integral unit, rather than upon a parcel-by-parcel basis. The court found this interpretation to be a reasonable one as Congress had clearly intended to allow at least some ORV usage in the CDCA and this goal probably could not be achieved without adverse impacts to some land. Dove Springs comprises only 0.025 percent of the entire CDCA and the Plan leaves only 4 percent of the entire CDCA open to unrestricted ORV use. Viewed from this perspective, BLM's determination that continued unrestricted ORV use at Dove Springs would not cause "considerable adverse effects" to the CDCA was not arbitrary and, thus, must be upheld.

Sierra Club v. Clark, \_\_\_\_\_ F.2d \_\_\_\_\_, No. 83-6378 (9th Cir. Mar. 25, 1985). D. J. #90-1-4-2282.

Attorneys: Robert L. Klarquist (Land and Natural Resources Division) FTS 633-2731; Jacques B. Gelin (Land and Natural Resources Division) FTS 633-2762.

MINE OPERATOR'S FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES BARS HIS CHALLENGE TO CESSATION ORDER; SECRETARY'S REGULATIONS FOUND AUTHORIZED.

The Secretary appealed from an order preliminarily enjoining him from enforcing a cessation order issued pursuant to the Surface Mining Act. Ruling that Mullins had failed to exhaust available administrative remedies as contemplated by the Act, the court of appeals vacated the injunction.

The court rejected the district court's finding that exhaustion of administrative remedies would have been futile since, according to the district court, the Secretary had failed to act within five days of Mullins' request for review. The district court had dismissed the Secretary's argument that Mullins had waived the opportunity for speedy review under the Act by terming the inadequacies of Mullins' application as merely technical. The court of appeals, in effect, found the regulations promulgated by the Secretary implementing the review process well within the scope of the Secretary's authority and found, further, that failure to comply with these regulations cannot be dismissed as a mere technicality.

Mullins Coal Company v. William P. Clark, \_\_\_\_\_ F.2d \_\_\_\_\_, No. 85-1042 (4th Cir. Mar. 28, 1985). D. J. # 90-1-18-1042.

Attorneys: Maria A. Iizuka (Land and Natural Resources Division) FTS 633-2753; David C. Shilton (Land and Natural Resources Division) FTS 633-4427.

EQUAL ACCESS TO JUSTICE ACT APPLIES TO CONDEMNATION PROCEEDINGS; LANDOWNER IS PREVAILING PARTY WHERE AWARD IS 53% MORE THAN GOVERNMENT'S PRELITIGATION OFFER.

The court of appeals, reversing the district court, held (1) that the Equal Access to Justice Act (EAJA) applies in straight condemnation proceedings (this agrees with the Fifth, Eighth and Ninth Circuits); (2) landowners were the prevailing parties where they were awarded 53% more than the government's prelitigation offer; (3) the case was "pending" on October 1, 1981, as required by EAJA, where the government, though judgment had been entered prior to that date, did not deposit any funds in the court's registry until after that date. The court remanded for a determination whether the position of the United States was substantially justified. Judge Johnson dissented from the part of the court's ruling that when the government takes title in a "straight" condemnation proceeding the landowner can be the prevailing party.

United States v. 640.00 Acres in Dade County, Florida (Virginia Land Company), F.2d , No. 82-5510 (11th Cir. Apr. 3, 1985). D. J. # 33-10-773-3206.

Attorneys: Virginia P. Butler (Land and Natural Resources Division) FTS 727-8379; Jacques B. Gelin (Land and Natural Resources Division) FTS 633-2762; Robert L. Klarquist (Land and Natural Resources Division) FTS 633-2731.

OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS

SELECTED CONGRESSIONAL AND LEGISLATIVE ACTIVITIES  
MARCH 19, 1985 - APRIL 16, 1985

HIGHLIGHTS

Associate Attorney General D. Lowell Jensen's name will be submitted by the President to the Senate for nomination as Deputy Attorney General. The President will submit the name of Assistant Attorney General for Civil Rights, Wm. Bradford Reynolds to the Senate for nomination as Associate Attorney General.

Drug Trafficking. The assassination in Mexico of our DEA agent, combined with the increasing flow of drugs into the United States, has resulted in a flurry of Congressional hearings with more to follow. The primary push in recent days is for the United States to take a harder line with foreign drug source countries, particularly Mexico. The Department of State has taken the lead on this issue. To a large extent, foreign supplies of drugs are more dependent upon weather than action by the United States or

foreign governments. Unfortunately, growing conditions have been favorable in drug producing areas throughout the world with the result that we are faced with bumper cocoa, opium poppy, and marijuana crops everywhere. The hard-won progress made in recent years to reduce drug production in a number of foreign countries has thus been overshadowed by the very favorable growing season which we have just experienced.

In addition to proposed legislation to invoke harsh sanctions against drug producing nations, a wide range of other new legislative initiatives have been announced by Members of Congress. The Senate has already approved legislation (S. 630) to authorize payment of rewards for information regarding kidnapping of or assaults upon federal drug agents. Whether such legislation is truly needed seems questionable in light of the longstanding authority of the Attorney General to pay rewards and legislation enacted last year (Pub. L. No. 98-533) authorizing rewards in connection with furnishing of information on terrorist acts (that measure is broad enough to embrace "narco-terrorism"). Most of the other congressionally-initiated measures proposed to date are similarly suspect in terms of their practical utility to law enforcement. At the same time, however, the high level of Congressional interest in drug trafficking is encouraging in terms of prospects for action on criminal justice legislative proposals being developed within the Department of Justice.

Surplus Property for Correctional Facility. GSA accepted an application from Iberia Parish, Louisiana, for 62.5 acres of land at the New Iberia National Guard Facility for a minimum confinement jail facility. This is the first discount conveyance of federal surplus real property in the nation under the Comprehensive Crime Control Act of 1984 to a state or local entity for correctional purposes. The Justice Department has given approval for this transfer. Several similar conveyances will be processed as implementing rules and regulations for these transfers are developed.

Anti-Money Laundering Legislation. Congressional interest in money laundering continues to soar. The House Banking Committee held a hearing on the Bank of Boston case at which Assistant Secretary John Walker testified, Senator Roth's Permanent Subcommittee on Investigations held a hearing on the same issue at which United States Attorney Bill Weld of Boston represented the Department of Justice. On April 16, 1985, Representative Hughes' Subcommittee on Crime also held a hearing on money laundering. In addition to looking into the Bank of Boston case, all of these panels are working on new legislative proposals dealing with currency transactions. The Department of Justice is working on a comprehensive anti-money laundering bill for possible submission to Congress later this spring.

Sentencing Commission Legislation. On April 3, 1985, the Senate passed legislation previously passed by the House under expedited procedures modifying a section of the Comprehensive Crime Control Act to permit senior as well as active status federal judges to serve on the sentencing guidelines commission established by the Act and to permit the Commission to request start-up funding. This legislation was actively supported by the Department and it is anticipated that it will be signed by the President in the near future.

Monitoring of Crimes Against Minority Groups. The Anti-Defamation League, NAACP and other groups have intensified pressure for a statistical program by the Department of Justice to monitor so-called "hate crimes", i.e. crimes motivated by racial, religious or ethnic prejudice. The Subcommittee on Criminal Justice held a hearing on March 21 with respect to H.R. 1171 to require the Department to include "hate crimes" data in our annual Uniform Crime Reports (UCR) produced by the FBI. The UCR, however, is derived from data provided by more than 16,000 state and local law enforcement agencies and simply tracks crimes reported to police--the UCR is not sufficiently sophisticated to distinguish among crimes based upon the motive of the perpetrator. Our statisticians estimate that it might cost \$10 million per year to develop meaningful data on "hate crimes." However, the Subcommittee members appeared adamant in demanding that we produce the desired data and our witnesses at the March 21 hearing (Assistant FBI Director Baker and Director of Bureau of Justice Statistics Steve Schlesinger) were, in effect, told to figure out some way to produce statistics if not through UCR then by some other mechanism.

Victim-Witness Protection. Experience under the Victim and Witness Protection Act of 1982 has demonstrated the need for amendments to enable the Department to prosecute effectively those who would intimidate or bribe witnesses or victims. Deputy Assistant Attorney General Jim Knapp of the Criminal Division testified before Rep. Conyers' Criminal Justice Subcommittee on April 3 in support of these amendments.

#### FEDERAL RULES OF CRIMINAL PROCEDURE

##### Rule 53. Regulation of Conduct In the Court Room.

Defendant, charged with failing to register for the draft, filed a pre-trial motion requesting permission to photograph, record, and broadcast his court proceedings. The pre-trial motion and subsequent motions were denied. On appeal defendant contends that although Rule 53 provides that "[t]he taking of photographs in the courtroom during the progress of judicial proceedings . . .



shall not be permitted by the court," the court has discretion under Rule 2 to consider this issue on an ad hoc basis. Defendant further contends that his First and Sixth Amendment rights would be abridged if Rule 53 creates an absolute ban on cameras in the courtroom.

The court of appeals looked to the plain language of the Rule and noted that "shall not" can only mean that the Rule applies in all situations with no exceptions. Concerning the constitutional issues raised, the court stated that the Sixth Amendment is satisfied by the opportunity of the press and public to attend the proceedings and report their observations. Regarding the First Amendment, the court emphasized that Rule 53, which prescribes only a limitation on the time, place, and manner of news-gathering, is not entitled to the same level of scrutiny that a denial of access would merit. The marginal gains from broadcasting a trial that is already public are outweighed by the risks of prejudice that the procedures might entail. Therefore, having found Rule 53's ban on cameras in the courtroom to be a reasonable exercise of the rulemaking power and not in violation of the Defendant's constitutional rights, the decision below is affirmed.

(Affirmed.)

United States v. Gillam Kerley, 753 F.2d 617 (7th Cir. Jan. 30, 1985).

#### FEDERAL RULES OF EVIDENCE

##### Rule 702. Testimony by Experts.

At trial, the evidence against defendant, who was convicted for participation in a scheme to defraud vendors, consisted primarily of twelve eyewitnesses who observed an "individual" for periods ranging from five to forty-five minutes. In an attempt to establish that he was not this individual, defendant sought to have an expert testify on the unreliability of the eyewitness testimony. From the trial court's ruling that admission of the defense expert's testimony would usurp the jury function and therefore will not be permitted, the defendant appeals asserting admission under Rule 702.

Although holding that admission of expert testimony concerning the reliability of eyewitness identification is not precluded by the Federal Rules, the court of appeals stated that under the "helpfulness" standard of Rule 702, admission is not automatic--it is conditional. An in limine proceeding must first be conducted by the trial judge to determine the reliability

of the scientific principles that form the foundation for the proffered testimony, and the likelihood that the testimony may confuse, overwhelm, or mislead the jury. If the evidence satisfies this preliminary inquiry, the court must then assess whether the defense proffer demonstrates the relevance of the expert's testimony to a disputed issue in the case. Also noted by the court is the trial court's discretion under Rule 403 to exclude even reliable, relevant evidence if the court determines it would confuse the issues or waste time. Since the reliability question was never addressed and an on-the-record proceeding concerning relevancy was never conducted, this case is remanded to give both the trial court and the defendant an opportunity to apply the procedures recommended by the court of appeals.

(Vacated and remanded.)

United States v. Downing, 753 F.2d 1224 (3d Cir. Jan. 25, 1985).

LISTING OF ALL BLUESHEETS IN EFFECT  
APRIL 12, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
1-11.240*	TITLE 1	7/31/84	Immunity for the Act of Producing Reports
1-11.400*	TITLE 1	6/21/84	Immunity
1-12.020*	TITLE 1	6/29/84	Pre-Trial Diversion Program
1-12.100	TITLE 1	4/24/84	Eligibility Criteria
1-12.400*	TITLE 1	10/12/84	PTD Agreement
1-12.602	TITLE 1	10/12/84	Letter to Offender--(USA Form 185)
1-12.603	TITLE 1	10/12/84	Agreement--(USA Form 186)
9-2.111	TITLE 9	10/26/84	Declinations
9-2.132*	TITLE 9	3/21/84	Policy Limitations on Institution of Proceedings-Internal Security Matters
9-2.133*	TITLE 9	4/09/84	Policy Limitations on Institution of Proceedings, Consultation Prior to Institution of Criminal Charges
9-2.142(1) (c)(2)(c)*	TITLE 9	10/26/84	Dual and Successive Federal Prosecution Policy
9-2.144*	TITLE 9	10/26/84	Interstate Agreement on Detainers
9-2.147*	TITLE 9	10/26/84	Extradition and Deportation
9-2.149*	TITLE 9	10/26/84	Revocation and Naturalization
9-2.151	TITLE 9	8/10/84	Policy Limitations-Prosecutorial and Other Matters, International Matters.

\* Approved by Advisory Committee, being permanently incorporated.

\*\* In printing.

LISTING OF ALL BLUESHEETS IN EFFECT  
APRIL 12, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-2.172	TITLE 9	10/26/84	Appearance Bond Forfeiture Judge
9-2.173	TITLE 9	10/26/84	Arrest of Foreign Nationals
9-4.543*	TITLE 9	8/10/84	Subpoenas to Obtain Records Located in Foreign Countries.
9-7.1000*	TITLE 9	5/02/84	Video Surveillance
9-11.220**	TITLE 9	3/28/85	Extraterritorial Effect of the All Writs Act, 28 U.S.C. §1651
9-11.220C*	TITLE 9	8/27/84	Obtaining Records to Aid in the Location of Federal Fugitives by Use of All Writs Act
9-11.230*	TITLE 9	4/16/84	Fair Credit Reporting Act and Grand Jury Subpoenas-Discretion of U.S. Attorneys
9-11.250*	TITLE 9	7/9/84	Advice of Rights to Targets and Subjects of Grand Jury Investigations
9-11.270*	TITLE 9	8/10/84	Limitation on Resubpoenaing Contumacious Witness before Successive Grand Juries
9-12.340*	TITLE 9	7/24/84	Forfeiture
9-21.340 to 9-21.350	TITLE 9	3/12/84	Psychological/Vocational Testing; Polygraph Examinations for Prisoner-Witness Candidates
9-27.510*	TITLE 9	5/25/84	Opposing Offers to Plead Nolo Contendere
9-38.000*	TITLE 9	4/06/84	Forfeitures
9-42.530*	TITLE 9	10/9/84	Dept. of Defense Memorandum of Understanding
9-48.120	TITLE 9	3/07/85	Computer Fraud-Reporting Requirements

LISTING OF ALL BLUESHEETS IN EFFECT  
APRIL 12, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-48.150; 9-49.160**	TITLE 9	3/22/85	18 U.S.C. §1029-Reporting Requirements; Fraudulent Use of Credit Cards and Debit Instruments-Prosecutions under 18 U.S.C. §1029 Statutes in Title 15
9-60.134; 9-60.135*	TITLE 9	3/30/84	Allegations of "Mental Kidnapping" or "Brain-washing" by Religious Cults; "Deprogramming" of Religious Sect Members
9-60.134; 9-60.135*	TITLE 9	12/14/84	Allegations of "Mental Kidnapping" or "Brain-washing" by Religious Cults; "Deprogramming" of Religious Sect Members
9-60.215*	TITLE 9	3/30/84	"Electronic, Mechanical or Other Device" (18 U.S.C. §2510(5))
9-60.231*	TITLE 9	3/30/84	Scope of Prohibitions
9-60.243*	TITLE 9	3/30/84	Other Consensual Interceptions
9-60.291*	TITLE 9	3/30/84	Interception of Radio Communications
9-60.400*	TITLE 9	12/31/84	Criminal Sanctions Against Illegal Electronic Surveillance - the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. §1809
9-60.830	TITLE 9	2/20/85	Special Forfeiture of Collateral Profits of Crime ("Son of Sam")
9-61.130 to* 9-61.134	TITLE 9	4/30/84	National Motor Vehicle Theft Act-Dyer Act (18 U.S.C. §§2311-2313)
9-61.640 to* 9-61.642	TITLE 9	4/30/84	Bank Robbery

LISTING OF ALL BLUESHEETS IN EFFECT  
APRIL 12, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-61.970**	TITLE 9	3/22/85	Policy Concerning Prosecution
9-63.132 to* 9-63.133	TITLE 9	5/02/84	Indictment; Death Penalty
9-63.195*	TITLE 9	5/02/84	Protection of Confidentiality of Security Procedures
9-63.251	TITLE 9	2/25/85	Policy Concerning Prosecution - 18 U.S.C. §32(b)
9-63.271*	TITLE 9	2/25/85	Policy Concerning Prosecution - 18 U.S.C. §33
9-63.460 to* 9-63.490	TITLE 9	5/02/84	Obscene or Harassing Telephone Calls - 47 U.S.C. §223
9-63.1130*	TITLE 9	2/25/85	Policy Concerning Prosecution - 18 U.S.C. §1365
9-64.212*	TITLE 9	2/20/85	Prosecution Policy Concerning Robbery of Persons Possessing Non-Postal Service Money or Property of the United States
9-65.940**	TITLE 9	3/28/85	Policy Concerning Prosecution - 18 U.S.C §115
9-69.342	TITLE 9	2/20/85	Sentencing in Prison Contraband Cases
9-71.400*	TITLE 9	5/25/84	Prosecutive Policy
9-75.000*	TITLE 9	12/10/84	Obscenity
9-75.084*	TITLE 9	10/12/84	Comment-Child Pornography Statutes
9-75.091*	TITLE 9	3/28/84	47 U.S.C. §223-Comment
9-75.140*	TITLE 9	3/28/84	Prosecutive Policy
9-75.621	TITLE 9	10/12/84	Exception-Child Pornography Cases

LISTING OF ALL BLUESHEETS IN EFFECT  
APRIL 12, 1985

<u>AFFECTS USAM</u>	<u>TITLE NO.</u>	<u>DATE</u>	<u>SUBJECT</u>
9-103.130; 9-103.140**	TITLE 9	3/28/85	Controlled Substances Registrant Protection Act of 1984-Investigative & Prosecutive Guidelines; Criminal Division Approval
9-103.230**	TITLE 9	3/28/85	Policy Consideration -- Aviation Drug Trafficking Control Act
9-130.300*	TITLE 9	4/09/84	Prior Authorization Generally
9-131.030*	TITLE 9	4/09/84	Consultation Prior to Prosecution
9-131.110*	TITLE 9	4/09/84	Hobbs Act Robbery
9-133.010*	TITLE 9	2/20/85	Investigative Jurisdiction: 29 U.S.C. §501(c) and 18 U.S.C. §664
9-134.010*	TITLE 9	2/20/85	Investigative Jurisdiction: 18 U.S.C. §1954
9-136.020*	TITLE 9	2/20/85	Investigative Jurisdiction: 18 U.S.C. §1027
9-138.030**	TITLE 9	3/28/85	Consultation Prior to Prosecution
9-139.202*	TITLE 9	6/29/84	Supervisory Jurisdiction
9-139.220*	TITLE 9	6/29/84	Alternative Enforcement Measures
10-2.800; * 10-9.160	TITLE 10	4/30/84	Notice of Provision for Special Accommodations
10-3.530	TITLE 10	01/07/85	Advances to Non-Department of Justice Employees
10-3.560*	TITLE 10	12/13/84	Relocation
10-4.350*	TITLE 10	7/31/84	Use By United States Attorneys Offices of Forfeited Vehicles and Other Property
10-4.418*	TITLE 10	7/20/84	Maintenance of Attorney-Client Information

## UNITED STATES ATTORNEYS' MANUAL--TRANSMITTALS

The following United States Attorneys' Manual Transmittals have been issued to date in accordance with USAM 1-1.500.

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 1	A2	9/29/80	6/23/80	Ch. 7, Index to Title 1, Revisions to Ch. 2, 5, 8
	A3	9/23/81	8/3/81	Revisions to Ch. 1, 5, 12, Title 1 Index, Index to USAM
	A4	9/25/81	9/7/81	Revisions to Ch. 15, Index to Title 1, Index to USAM
	A5	11/2/81	10/27/81	Revisions to Ch. 5, 7
	A6	3/11/82	12/15/81	Revisions to Ch. 3, 5, 11, Title 1 Index, Index to USAM
	A7	3/12/82	2/9/82	Revisions to Ch. 8, Index to Title 1
	A8	5/6/82	4/27/82	Revisions to Ch. 2, 8, Title 1 Index, Index to USAM
	A9	3/9/83	8/20/82	Revisions to Ch. 5, 9, 10, 14
	A10	5/20/83	4/26/83	Revisions to Ch. 11
	A11	2/22/84	2/10/84	Complete revision of Ch. 1, 2
	A12	3/19/84	2/17/84	Complete revision of Ch. 4
	A13	3/22/84	3/9/84	Complete revision of Ch. 8

\* Transmittal is currently being printed.



<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 1	A14	3/23/84	3/9 & 3/16/84	Complete revision of Ch. 7, 9
	A15	3/26/84	3/16/84	Complete revision of Ch. 10
	A16	8/31/84	3/02/84	Complete revision of Ch. 5
	A17	3/26/84	3/26/84	Complete revision of Ch. 6
	A18	3/27/84	3/23/84	Complete revision of Ch. 11, 13, 14, 15
	A19	3/29/84	3/23/84	Complete revision of Ch. 12
	A20	3/30/84	3/23/84	Index to Title 1, Table of Contents to Title 1
	A21	4/17/84	3/23/84	Complete revision of Ch. 3
	A22	5/22/84	5/22/84	Revision of Ch. 1-6.200
	AAA1	5/14/84		Form AAA-1
TITLE 2	A2	9/24/81	9/11/81	Revisions to Ch. 2
	A3	1/20/82	11/10/81	Revisions to Ch. 3
	A4	5/17/83	10/1/82	Revisions to Ch. 2
	A5	2/10/84	1/27/84	Complete revision of Title 2-replaces all previous transmittals
	A11	3/30/84	1/27/84	Summary Table of Contents to Title 2
	AAA2	5/14/84		Form AAA-2
TITLE 3	A2	7/2/82	5/28/82	Revisions to Ch. 5

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>Contents</u>
TITLE 3	A3	10/11/83	8/4/83	Complete revision of Title 3-replaces all previous transmittals
	AAA3	5/14/84		Form AAA-3
TITLE 4	A2	7/30/81	5/6/81	Revisions to Ch. 2, 3, 4, 9, 11, 12, 15, Index to Title 4 & Index to USAM
	A3	10/2/81	9/16/81	Revisions to Ch. 1
	A4	3/10/82	8/10/81	Revisions to Ch. 1, 2, 4, 5, 8, 10, 11, 13, Index to Title 4
	A5	10/15/82	5/31/82	Revisions to Ch. 2, 3, 12
	A6	4/27/83	2/1/83	Revisions to Ch. 2, 3, 9, and 12
	A7	4/16/84	3/26/84	Complete revision of Ch. 7, 8, 12
	A8	4/16/84	3/28/84	Complete revision of Ch. 2, 14, 15
	A9	4/23/84	3/28/84	Complete revision of Ch. 3
	A10	4/16/84	3/28/84	Complete revision of Ch. 10
	A11	4/30/84	3/28/84	Complete revision of Ch. 1, 9, Index to Title 4
	A12	4/21/84	3/28/84	Complete revision of Ch. 6
	A13	4/30/84	3/28/84	Complete revision of Ch. 4
	A14	4/10/84	3/28/84	Complete revision of Ch. 13

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 4	A15	3/28/84	3/28/84	Complete revision of Ch. 5
	A16	4/23/84	3/28/84	Complete revision of Ch. 11
	AAA4	5/14/84		Form AAA-4
TITLE 5	A2	4/16/81	4/6/81	Revisions to Ch. 1, 2, 2A, 3, 4, 5, 7, 8, New Ch. 9, 9A, 9B, 9C, & 9D
	A3	3/22/84	3/5/84	Complete revision of Ch. 1, 2, 3(was 2A)
	A4	3/28/84	3/12/84	Complete revision of Ch. 12 (was 9C)
	A4	undated	3/19/84	Complete revision of Ch. 5 (was Ch. 4), 6, 8
	A5	3/28/84	3/20/84	Complete revision of Ch. 9, 11 (was 9B)
	A6	3/28/84	3/22/84	Complete revision of Ch. 7
	A7	3/30/84	3/20/84	Complete revision of Ch. 10 (was 9A)
	A8	4/3/84	3/22 & 3/26/84	Complete revision of Ch. 13, 14, 15, Table of Contents to Title 5
	A9	12/06/84	11/01/84	Revisions to Chapter 1
	A11	4/17/84	3/28/84	Complete revision of Ch. 4 (was Ch. 3)
	A12	4/30/84	3/28/84	Index to Title 5
	AAA5	5/14/84		Form AAA-5
TITLE 6	A2	3/23/84	2/8/84	Complete revision of Title 6-replaces all prior transmittals

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
	A3	12/19/84	12/14/84	Revision to Chapter 4 and Index
	AAA6	5/14/84		Form AAA-6
TITLE 7	A2	6/30/81	6/2/81	Revisions to Ch. 5, Index to Title 7, Index to USAM
	A3	12/4/81	11/16/81	Revisions to Ch. 5
	A4	1/6/84	11/22/83	Complete revision to Title 7-replaces all prior transmittals
	A12	3/3/84	12/22/83	Summary Table of Con- tents to Title 7
	AAA7	5/14/84		Form AAA-7
TITLE 8	A1	4/2/84	2/15/84	Ch. 1, 2, Index to Title 8
	A2	6/21/82	4/30/82	Complete revision to Title 8
	A12	3/30/84	2/15/84	Summary Table of Con- tents to Title 8
	AAA8	5/14/84		Form AAA-8
TITLE 9	A2	11/4/80	10/6/80	New Ch. 27, Revisions to Ch. 1, 2, 4, 7, 17, 34, 47, 69, 120, Index to Title 9, and Index to USAM
	A3	6/30/81	4/16/81	Revisions to Ch. 1, 4, 7, 21, 42, 61, 69, 72, 104, Index to USAM
	A4	6/1/81	5/29/81	Revisions to Ch. 4, 7, 70, 78, 90, 121, New Ch. 123, Index to Title 9, Index to USAM

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A5	11/2/81	6/18/81	Revisions to Ch. 4, 8, 20, 47, 61, 63, 65, 75, 85, 90, 100, 110, 120, Index to Title 9, Index to USAM
	A6	12/11/81	10/8/81	Revisions to Ch. 17, Title 9 Index, Index to USAM
	A7	1/5/82	10/8/81	Revisions to Ch. 2, 7, 37, 60, 90, 139, Title 9 Index, Index to USAM
	A8	1/13/82	11/24/81	Revisions to Ch. 34, Index to Title 9, Index to USAM
	A9	3/12/82	9/8/82	Revisions to Ch. 11, Title 9 Index, Index to USAM
	A10	10/6/82	3/29/82	Revisions to Ch. 1, 11, 16, 69, 79, 120, 121, Entire Title 9 Index, Index to USAM
	A11	3/2/83	9/8/82	Revisions to Ch. 120, 121, 122
	A12	9/19/83	5/12/83	Revisions to Ch. 101
	A13	1/26/84	1/11/84	Complete revision of Ch. 132, 133
	A14	2/10/84	1/27/84	Revisions to Ch. 1
	A15	2/1/84	1/27/84	Complete revision of Ch. 8
	A16	3/23/84	2/8/84	Complete revision of Ch. 135, 136
	A17	2/10/84	2/2/84	Complete revision of Ch. 39
	A18	2/3/84	2/3/84	Complete revision of Ch. 40

TRANSMITTAL  
AFFECTING  
TITLE

<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>	
TITLE 9	A19	3/26/84	2/7/84	Complete revision of Ch. 21
	A20	3/23/84	2/8/84	Complete revision of Ch. 137, Ch. 138
	A21	3/19/84	2/13/84	Complete revision of Ch. 34
	A22	3/30/84	2/01/84	Complete revision of Ch. 14
	A23	8/31/84	2/16/84	Revisions to Ch. 2
	A24	3/23/84	2/28/84	Complete revision of 65
	A25	3/26/84	3/7/84	Complete revision of Ch. 130
	A26	3/26/84	2/8/84	Complete revision of Ch. 44
	A27	3/26/84	3/9/84	Complete revision of Ch. 90
	A28	3/29/84	3/9/84	Complete revision of Ch. 101
	A29	3/26/84	3/9/84	Complete revision of Ch. 121
	A30	3/26/84	3/19/84	Complete revision of Ch. 9
	A31	3/26/84	3/16/84	Complete revision of Ch. 78
	A32	3/29/84	3/12/84	Complete revision of Ch. 69
	A33	3/29/84	3/9/84	Complete revision of Ch. 102
	A34	3/26/84	3/14/84	Complete revision of Ch. 72

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A35	3/26/84	2/6/84	Complete revision of Ch. 37
	A36	3/26/84	2/6/84	Complete revision of Ch. 41
	A37	4/6/84	2/8/84	Complete revision of Ch. 139
	A38	3/29/84	2/28/84	Complete revision of Ch. 47
	A39	3/30/84	3/16/84	Complete revision of Ch. 104
	A40	4/6/84	3/9/84	Complete revision of Ch. 100
	A41	4/6/84	3/9/84	Complete revision of Ch. 110
	A42	3/29/84	3/09/84	Complete revision of Ch. 64
	A43	4/6/84	3/14/84	Complete revision of Ch. 120
	A44	4/5/84	3/21/84	Complete revision of Ch. 122
	A45	4/6/84	3/23/84	Complete revision of Ch. 16
	A46	2/30/84	1/16/84	Complete revision of Ch. 43
	A47	4/16/84	3/28/84	Revisions to Ch. 7
	A48	4/16/84	3/28/84	Complete revision of Ch. 10
	A49	4/16/84	3/28/84	Revisions to Ch. 63
	A50	4/16/84	3/28/84	Revisions to Ch. 66
	A51	4/6/84	3/28/84	Complete revision of Ch. 76, deletion of Ch. 77

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A52	4/16/84	3/30/84	Complete revision of Ch. 85
	A53	6/6/84	3/28/84	Revisions to Ch. 4
	A54	7/25/84	6/15/84	Complete revision of Ch. 11
	A55	4/23/84	4/6/84	Complete revision of Ch. 134
	A56	4/30/84	3/28/84	Revisions to Ch. 42
	A57	4/16/84	3/28/84	Complete revision of Ch. 60, 75
	A58	4/23/84	4/19/84	Summary Table of Contents of Title 9
	A59	4/30/84	4/16/84	Entire Index to Title 9
	A60	5/03/84	5/03/84	Complete revision of Chapter 66
	A61	5/03/84	4/30/84	Revisions to Chapter 1, section .103
	A62	12/31/84	12/28/84	Revisions to Chapter 123
	A63	5/11/84	5/9/84	Complete revision to Ch. 7
	A64	5/11/84	5/11/84	Revision to Ch. 64, section .400-700
	A65	5/17/84	5/17/84	Revisions to Ch. 120
	A66	5/10/84	5/8/84	Complete revision to Ch. 131
	A67	5/11/84	5/09/84	Revisions to Ch. 121, section .600
	A68	5/28/84	5/18/84	Revisions to Ch. 104
	A69	5/09/84	5/07/84	Revisions to Ch. 21, section .600



<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A70	5/17/84	5/16/84	Revisions to Ch. 43, section .710
	A71	5/21/84	5/21/84	Complete revision of Ch. 20
	A72	5/25/84	5/23/84	Complete revision of Ch. 61
	A73	6/18/84	6/6/84	Complete revision of Ch. 17
	A74	6/18/84	6/7/84	Complete revision of Ch. 63
	A75	6/26/84	6/15/84	Complete revision of Ch. 27
	A76	6/26/84	6/15/84	Complete revision of Ch. 71
	A77	7/27/84	7/25/84	Complete revision of Ch. 6
	A78	9/10/84	8/31/84	Complete revision of Ch. 1
	A79	8/02/84	7/31/84	Complete revision of Ch. 18
	A80	8/03/84	8/03/84	Complete revision of Ch. 79
	A81	8/06/84	7/31/84	Revisions to Ch. 7
	A82	8/02/84	7/31/84	Revisions to Ch. 75
	A83	8/02/84	7/31/84	Revisions to Ch. 90
	A84	9/10/84	9/7/84	Complete revision of Ch. 2
	A85	7/25/84	2/17/84	Revisions to Ch. 136
	A86	8/02/84	7/31/84	Revisions to Ch. 60
	A87	11/14/84	11/09/84	Revision to Ch. 42

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 9	A88	8/31/84	8/24/84	Complete revision of Ch. 12
	A90	10/10/84	10/01/84	Complete revision of Ch. 73
	A91	12/12/84	11/23/84	Revisions to Ch. 70
	A92	12/14/84	11/09/84	Revisions to Ch. 75
	A93	12/31/84	12/06/84	Revisions to Ch. 7
	A94	12/20/84	12/14/84	Correction to Ch. 27
	AAA9	5/14/84		Form AAA-9
TITLE 10	A2	11/2/81	8/21/81	Revisions to Ch. 2, 3, 6, Index to Title 10
	A3	12/1/81	8/21/81	Revisions to Ch. 2
	A4	12/28/81	---	Title Page to Title 10
	A5	3/26/82	1/8/82	Revisions to Ch. 2, 6, Index to Title 10
	A6	6/17/82	1/4/82	Revisions to Ch. 4, Index to Title 10
	A7	3/4/83	5/31/82	Revisions to Ch. 2, 3, 5, 6, and New Ch. 9
	A8	4/5/84	3/24/84	Complete revision of Ch. 1
	A9	4/6/84	3/20/84	Complete revision of Ch. 7
	A10	4/13/84	3/20/84	Complete revision of Ch. 5
	A11	3/29/84	3/24/84	Complete revision of Ch. 6
	A12	4/3/84	3/24/84	Complete revision of Ch. 8

<u>TRANSMITTAL AFFECTING TITLE</u>	<u>NO.</u>	<u>DATE OF TRANSMITTAL</u>	<u>DATE OF TEXT</u>	<u>CONTENTS</u>
TITLE 10	A13	9/4/84	3/26/84	Complete revision of Ch. 10
	A14	4/23/84	3/28/84	Complete revision of Ch. 4
	A15	4/17/84	3/28/84	Complete revision of Ch. 3, 9
	A16	5/4/84	3/28/84	Index and Appendix to Title 10
	A17	3/30/84	3/28/84	Summary Table of Con- tents to Title 10
	A18	5/4/84	4/13/84	Complete revision to Ch. 2
	A19	5/02/84	5/01/84	Revisions to Chapter 4
	A20	8/31/84	5/24/84 & 7/31/84	Revisions to Chapter 2
	A21	6/6/84	5/1/84	Corrected TOC Chapter 4 and pages 23, 24
	A22	7/30/84	7/27/84	Revision to Ch. 2
	A23	8/02/84	7/31/84	Revision to Ch. 2
	A24	11/09/84	10/19/84	Revision to Ch. 2
	A25	11/09/84	10/19/84	Revision to Ch. 2
	A26	11/28/84	11/28/84	Revision to Ch. 2
	A27	12/07/84	11/01/84	Revision to Ch. 2
	AAA10	5/14/84		Form AAA-10
TITLE 1-10	A1	4/25/84	4/20/84	Index to USAM

TELETYPES

- 04-11-85 From Richard L. DeHaan, Director, Office of Administration and Review, re: "Upcoming FY 1987 Budget Request."
- 04-16-85 From William P. Tyson, Director, Executive Office for United States Attorneys, re: "Court Appointed United States Attorneys."
- 04-17-85 From C. Madison Brewer, Director, Office of Management Information Systems and Support, re: "Requests for Information About the Resources Needed to Collect and Deposit Magistrate Fines."
- 04-18-85 From William P. Tyson, Director, Executive Office for United States Attorneys, re: "Attorney General's Advisory Committee of United States Attorneys."
- 04-23-85 From William P. Tyson, Director, Executive Office for United States Attorneys, re: "Financial Disclosure Reports - Annual Filing Date."

## UNITED STATES ATTORNEYS' LIST

<u>DISTRICT</u>	<u>U.S. ATTORNEY</u>
Alabama, N	Frank W. Donaldson
Alabama, M	John C. Bell
Alabama, S	J. B. Sessions, III
Alaska	Michael R. Spaan
Arizona	Stephen M. McNamee
Arkansas, E	George W. Proctor
Arkansas, W	W. Asa Hutchinson
California, N	Joseph P. Russoniello
California, E	Donald B. Ayer
California, C	Robert C. Bonner
California, S	Peter K. Nunez
Colorado	Robert N. Miller
Connecticut	Alan H. Nevas
Delaware	Joseph J. Farnan, Jr.
District of Columbia	Joseph E. diGenova
Florida, N	W. Thomas Dillard
Florida, M	Robert W. Merkle
Florida, S	Stanley Marcus
Georgia, N	Larry D. Thompson
Georgia, M	Joe D. Whitley
Georgia, S	Hinton R. Pierce
Guam	David T. Wood
Hawaii	Daniel A. Bent
Idaho	William R. Vanhole
Illinois, N	Gregory C. Jones
Illinois, S	Frederick J. Hess
Illinois, C	Gerald D. Fines
Indiana, N	R. Lawrence Steele, Jr.
Indiana, S	John D. Tinder
Iowa, N	Evan L. Hultman
Iowa, S	Richard C. Turner
Kansas	Benjamin L. Burgess, Jr.
Kentucky, E	Louis G. DeFalaise
Kentucky, W	Ronald E. Meredith
Louisiana, E	John Volz
Louisiana, M	Stanford O. Bardwell, Jr.
Louisiana, W	Joseph S. Cage, Jr.
Maine	Richard S. Cohen
Maryland	J. Frederick Motz
Massachusetts	William F. Weld
Michigan, E	Joel M. Shere
Michigan, W	John A. Smietanka
Minnesota	James M. Rosenbaum
Mississippi, N	Glen H. Davidson
Mississippi, S	George L. Phillips
Missouri, E	Thomas E. Dittmeier
Missouri, W	Robert G. Ulrich

UNITED STATES ATTORNEYS

<u>DISTRICT</u>	<u>U.S. ATTORNEY</u>
Montana	Byron H. Dunbar
Nebraska	Ronald D. Lahners
Nevada	William A. Maddox
New Hampshire	Bruce E. Kenna
New Jersey	W. Hunt Dumont
New Mexico	William L. Lutz
New York, N	Frederick J. Scullin, Jr.
New York, S	Rudolph W. Giuliani
New York, E	Raymond J. Dearie
New York, W	Salvatore R. Martoche
North Carolina, E	Samuel T. Currin
North Carolina, M	Kenneth W. McAllister
North Carolina, W	Charles R. Brewer
North Dakota	Rodney S. Webb
Ohio, N	Patrick M. McLaughlin
Ohio, S	Christopher K. Barnes
Oklahoma, N	Layn R. Phillips
Oklahoma, E	Roger Hilfiger
Oklahoma, W	William S. Price
Oregon	Charles H. Turner
Pennsylvania, E	Edward S. G. Dennis, Jr.
Pennsylvania, M	James J. West
Pennsylvania, W	J. Alan Johnson
Puerto Rico	Daniel F. Lopez-Romo
Rhode Island	Lincoln C. Almond
South Carolina	Henry Dargan McMaster
South Dakota	Philip N. Hogen
Tennessee, E	John W. Gill, Jr.
Tennessee, M	Joe B. Brown
Tennessee, W	W. Hickman Ewing, Jr.
Texas, N	James A. Rolfe
Texas, S	Henry K. Oncken
Texas, E	Robert J. Wortham
Texas, W	Helen M. Eversberg
Utah	Brent D. Ward
Vermont	George W. F. Cook
Virgin Islands	James W. Diehm
Virginia, E	Elsie L. Munsell
Virginia, W	John P. Alderman
Washington, E	John E. Lamp
Washington, W	Gene S. Anderson
West Virginia, N	William A. Kolibash
West Virginia, S	David A. Faber
Wisconsin, E	Joseph P. Stadtmueller
Wisconsin, W	John R. Byrnes
Wyoming	Richard A. Stacy
North Mariana Islands	David T. Wood